

Oct 29, 2021

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

CHARLES T. W. WEEMS,

Defendant.

No. 2:12-CR-02065-SAB

**ORDER DENYING  
EMERGENCY MOTION FOR  
COMPASSIONATE RELEASE  
UNDER 18 U.S.C. § 3582(c)**

Before the Court is Defendant's Emergency Motion for Compassionate Release Under 18 U.S.C. § 3582(c), ECF No. 58. The motion was heard without oral argument. Defendant is represented by Jeremy Sporn. The United States is represented by Ian Garriques.

In 2012, Defendant plead guilty to 3 charges: (1) possession of an unregistered firearm; (2) possessing a firearm in furtherance of a drug trafficking offense; and (3) felon in possession of a firearm. Under the 11(c)(1)(C) Plea Agreement, Defendant agreed to be sentenced to 198 months imprisonment, followed by 5 years supervised release. The sentence included a mandatory 120-month consecutive term on one count, along with concurrent 78 months terms on the other two counts. According to Defendant, his projected release date is January 26, 2023.

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**ORDER DENYING EMERGENCY MOTION FOR COMPASSIONATE  
RELEASE UNDER 18 U.S.C. § 3582(c) ~ 1**

1 Defendant now ask the Court, pursuant to the First Step Act, to reduce his  
2 sentence to a term of credit for time served.

### 3 **Motion Standard**

4 Generally, a federal court may not modify a term of imprisonment once it  
5 has been imposed. *United States v. Aruda*, 993 F.3d 797, 799 (9th Cir. 2021)  
6 (quoting *Dillon v. United States*, 560 U.S. 817, 819 (2010)) (quotation omitted).  
7 Congress provided an exception to this rule, sometimes known as compassionate  
8 release, that permits courts to reduce a sentence for “extraordinary and compelling  
9 reasons.” 18 U.S.C. § 3582(c)(1)(A). Under this provision, an incarcerated persons  
10 can seek compassionate release after exhausting administrative remedies within the  
11 Bureau of Prisons and may be eligible for release if: (1) the Court finds  
12 “extraordinary or compelling reasons” to warrant a sentence reduction, (2) they are  
13 determined not to pose a risk of danger to the community, and (3) a sentence  
14 reduction is consistent with United States Sentence Commission policy statements.  
15 18 U.S.C. § 3582(c)(1)(A).<sup>1</sup>

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18 <sup>1</sup>Section 3582(c)(1)(A), as amended by the First Step Act, currently provides:

19 (c) Modification of an imposed term of imprisonment.—The court may not modify  
20 a term of imprisonment once it has been imposed except that—

21 (1) in any case—

22 (A) the court, upon motion of the Director of the Bureau of Prisons, or  
23 upon motion of the defendant after the defendant has fully exhausted all  
24 administrative rights to appeal a failure of the Bureau of Prisons to bring a motion  
25 on the defendant's behalf or the lapse of 30 days from the receipt of such a request  
26 by the warden of the defendant's facility, whichever is earlier, may reduce the term  
27 of imprisonment (and may impose a term of probation or supervised release with  
28 or without conditions that does not exceed the unserved portion of the original term

1 Congress did not provide a statutory definition of “extraordinary and  
 2 compelling reasons.” *Aruda*, 993 F.3d at 799. Rather, Congress indicated that the  
 3 Sentencing Commission should describe what is considered extraordinary and  
 4 compelling reasons for sentence reduction. *Id.* (citation omitted). Because the  
 5 Sentencing Commission has yet to issue a policy statement that applies to §  
 6 3582(c)(1)(A) motions filed by a defendant, “the statements in U.S.S.G. § 1B1.13  
 7 may inform a district court’s discretion for § 3582(c)(1)(A) motions filed by a  
 8 defendant, but they are not binding.” *Id.* at 802.

9 U.S.S.G. § 1B1.13<sup>2</sup> instructs the Court to consider the sentencing factors set  
 10 forth in 18 U.S.C. § 3553(a) when deciding a motion for compassionate release  
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12 of imprisonment), after considering the factors set forth in section 3553(a) to the  
 13 extent that they are applicable, if it finds that—

14 (i) extraordinary and compelling reasons warrant such a  
 15 reduction; or

16 (ii) the defendant is at least 70 years of age, has served at least  
 17 30 years in prison, pursuant to a sentence imposed under section 3559(c), for the  
 18 offense or offenses for which the defendant is currently imprisoned, and a  
 19 determination has been made by the Director of the Bureau of Prisons that the  
 20 defendant is not a danger to the safety of any other person or the community, as  
 21 provided under section 3142(g);

22 and that such a reduction is consistent with applicable policy statements  
 23 issued by the Sentencing Commission[.]

24 18 U.S.C. § 3582(c)(1)(A) (emphases added).

25 <sup>2</sup>U.S.S.G. 1B1.13 provides:

26 Upon motion of the Director of the Bureau of Prisons under 18 U.S.C. §  
 27 3582(c)(1)(A), the court may reduce a term of imprisonment (and may impose a  
 28 term of supervised release with or without conditions that does not exceed the

1 and indicates the Court should not grant a sentence reduction if the defendant poses  
2 a risk of danger to the community, as defined in the Bail Reform Act. U.S.S.G. §  
3 1B1.13.

#### 4 **Discussion**

5 The parties agree that Defendant has exhausted his administrative remedies  
6 as required by the First Step Act.

7 Defendant asserts that extraordinary and compelling reasons exist to warrant  
8 his requested sentence reduction. First, he suffers from Sarcoidosis that could  
9 compromise his ability to survive if he would contract COVID-19 for a second  
10 time while in prison. He states that the BOP facilities have poor sanitary  
11 conditions, it is impossible to social distance, and proper hygiene is impossible.  
12 Whether the staff and inmates wear masks is inconsistent at best. Time outside is  
13 limited, and laundry is infrequent. Moreover, there is an inadequate ventilation  
14 system.

15 Defendant points out that he has served more than 90% of the time he would  
16 otherwise serve, and he is not a danger to the community. He reports that he has  
17 taken advantage of several different courses while at BOP. He acknowledges that

18 unserved portion of the original term of imprisonment) if, after considering the  
19 factors set forth in 18 U.S.C. § 3553(a), to the extent that they are applicable, the  
20 court determines that--

21 **(1)(A)** Extraordinary and compelling reasons warrant the reduction; or

22 **(B)** The defendant (i) is at least 70 years old; and (ii) has served at least 30  
23 years in prison pursuant to a sentence imposed under 18 U.S.C. § 3559(c) for the  
24 offense or offenses for which the defendant is imprisoned;

25 **(2)** The defendant is not a danger to the safety of any other person or to the  
26 community, as provided in 18 U.S.C. § 3142(g); and

27 **(3)** The reduction is consistent with this policy statement.  
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1 he has some disciplinary history while in custody but suggests that most of the  
2 infractions reflect the reality of incarceration rather than reflect any real danger that  
3 he may pose if released. Finally, Defendant indicates that his father needs his  
4 assistance, and he plans on living with him in Florida if released.

5 The Court finds that Defendant has not shown that extraordinary and  
6 compelling reasons warrant a sentence reduction. As the Government points out,  
7 BOP has been managing Defendant's medical conditions and at this point, BOP is  
8 not necessarily convinced that he has Sarcoidosis. Moreover, there is no indication  
9 in the record that the Sarcoidosis affects his lungs, or that this would increase his  
10 complications for COVID-19 infection.

11 Defendant has not convinced the Court that he would not be a danger to the  
12 community if released. Notably, Defendant was placed on pretrial release in 2007.  
13 During that time, he showed an inability to comply with the conditions of release,  
14 including home confinement. He then absconded, only to commit another serious  
15 crime. Also, Defendant has been disciplined 17 times while incarcerated. The  
16 record does not show that during the time he has been incarcerated, Defendant has  
17 developed a better ability to abide by the conditions placed on him either by this  
18 Court or by BOP. As such, the Court finds that Defendant has not met his burden  
19 under the First Step Act to show that extraordinary and compelling reasons warrant  
20 a sentence reduction.

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1 Accordingly, **IT IS HEREBY ORDERED:**

2 1. Defendant's Emergency Motion for Compassionate Release Under 18  
3 U.S.C. § 3582(c), ECF No. 58, is **DENIED**.

4 **IT IS SO ORDERED.** The Clerk of Court is directed to enter this Order,  
5 forward copies to counsel, and close the file.

6 **DATED** this 29th day of October 2021.



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12 Stanley A. Bastian  
13 Chief United States District Judge  
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